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CHARLES ELMORE CROPLEY
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IN THE

Supreme Court of the United States

October Term, 1951.

No. 342

WARREN COUNTY, MISSISSIPPI,

Petitioner,

versus

C. E. HESTER, SHERIFF AND EX-OFFICIO TAX COLLECTOR OF MADISON PARISH, ET AL.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

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PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

OPINIONS BELOW

The opinion and judgment of the Trial Court is found in the transcript of record, pages 45-62 inclusive. The opinion and judgment of the Supreme Court of the State of Louisiana (as yet unreported) is found in the transcript of record, pages 74-82 inclusive. The refusal to grant rehearing is found in the transcript of record, page 91.

JURISDICTION

The judgment of the Supreme Court of Louisiana was entered on May 28, 1951 (R. 74). A petition for rehearing was timely filed on June 11, 1951 (R. 83) and was denied on June 29, 1951 (R. 91), on which date the judgment became final. The jurisdiction of this Court is invoked pursuant to U. S. C. A., Title 28, Section 1257 (3).

Through petitioner's original complaint (R. 3) several important Federal issues, constitutional and statutory, were brought to the fore. Among these contentions, which were initially advanced and throughout maintained, were: (a) That the tax sought to be imposed by respondents was discriminatory and in violation of the due process and equal protection clauses of the Fourteenth Amendment of the Federal Constitution, and (b) that the asserted tax imposed an undue burden on interstate commerce in violation of Article I, Section 8, of the Federal Constitution. The trial Court held that there was no discrimination in violation of the Fourteenth Amendment (R. 45, 56) and that the tax imposed was not violative of the commerce clause (R. 45, 53 et seq.).

The Supreme Court of the State of Louisiana reviewed the holdings of the Trial Court on both of these Federal constitutional questions. The Constitution of Louisiana exempts "all public property" from taxation; *but the State Court held that provision afforded no tax exemption to Petitioner, a political sub-

* Art. X, Sec. 4, subsec. 1.

division of Mississippi. This conclusion was bottomed upon the reasoning that petitioner held the public Vicksburg interstate bridge (so far as Louisiana was concerned) in a private capacity. But then, because Petitioner was and is a political subdivision of another state, the Louisiana Court concluded its opinion by announcing a legal principle expressly denying to Petitioner the shield and benefits of the due process and equal protection clauses of the Fourteenth Amendment available to and protecting all other owners of property. This results to place Petitioner, in its ownership and operation of this interstate bridge, at the mercy of the Louisiana taxing authorities. We quote from the opinion of the Louisiana Supreme Court:

> "Aside from other considerations, it is plain that the Fourteenth Amendment of the Federal Constitution, declaring that no state shall deprive any person of life, liberty or property without due process of law nor deny any person within its jurisdiction the equal protection of the laws, is utterly without application to the political subdivisions of a state, which cannot be viewed as a person without the purview of the constitutional provision. See Shelby vs. City of Pensacola (Fla.) 151 So. 53; Riley vs. Stack (Cal.) 18 P. (2d) 110 and Los Angeles County vs. Superior Court (Cal.) 18 P. (2d) 112." (R. 82.)

The correctness of this conclusion was specifically assailed below. See Section IX of Petition for Rehearing (R. 87).

The State Supreme Court held that the tax in question did not constitute an undue burden on interstate commerce. We quote:

> "It is also urged by counsel that the tax is void, being violative of Section 8 of Article 1 of the Federal Constitution, as an undue burden on interstate commerce. Counsel acknowledge that the Supreme Court of the United States, in Henderson Bridge Co. vs. Kentucky, 166 U. S. 150, 17 S. Ct. 532, 41 L. Ed. 953, has ruled directly to the contrary, holding that the operation of a toll bridge between states is not an interstate business. But they suggest that the dissenting opinion in that case (it was a five to four decision) be adopted *in the light of the facts of the case at bar.* For our part, we see no reason to disagree with the Supreme Court of the United States aside from the fact that the decision in the Henderson Bridge Co. case has been approved in Detroit Int. Bridge Co. vs. Corporation Tax Appeal Board, 294 U. S. 83, 55 S. Ct. 332, 89 L. Ed. 777." (R. 81-82)—(Emphasis added.)

Petitioner also in the State Court raised issues as to the impact of the applicable Act of Congress and of the laws of Mississippi. Though not expressly made the subject of decision by the Supreme Court of Louisiana, an entire subdivision of petitioner's brief below was devoted to the proposition that: "Plaintiff is here performing public functions and 'full faith and credit clause' of Constitution of United States requires this Court to so hold". See also Section VII (R. 87) and Section X (R. 88) of Petition for Rehearing. Further, the decision entered below itself de-

nied to petitioner the "equal protection" of the admitted law of Louisiana. The Supreme Court of Louisiana held: "It is manifest that, if the Vicksburg Bridge was dedicated to the public use by plaintiff after its acquisition in 1947, the property became constitutionally exempt from taxes for the year 1948". (R. 78). But then the Supreme Court of Louisiana nullified, so far as this petitioner is concerned, the constitutional exemption afforded by that state by entering an unjustified factual conclusion that the devotion of all net revenues from all sources to paying the cost of the acquisition was not a public use of these funds. This resulted to deny petitioner due process and the equal protection of the laws of the State of Louisiana. This issue was appropriately raised in the Application for Rehearing (Sections V to VIII thereof, R. 85-87), and in petitioner's printed brief in support thereof, from which we quote in summary:

> "Wherefore, under the settled law (recognized in the Court's opinion as being the law) the conclusion reached, denying the exemption, results to deprive Appellant, in its ownership and operation of this public bridge, of the 'equal protection' of the established and admitted jurisprudence."

QUESTIONS PRESENTED

1. Whether a political subdivision of the State of Mississippi may invoke the due process and equal protection clauses of the Fourteenth Amendment in

connection with its ownership and operation of an interstate bridge (necessarily located partly within Louisiana) when the courts of Louisiana, to prevent the application of its laws exempting public property, have held that the Mississippi political subdivision holds the property in a private capacity.

2. Whether the imposition of *ad valorem* taxes by the State of Louisiana constitutes an undue burden on interstate commerce when the interstate bridge so taxed is owned by a public political subdivision of the State of Mississippi, and the bridge has been, since its acquisition, operated without profit to the owner and in compliance with state and Federal statutes providing that, when the revenue bonds issued to defray its cost are retired, the bridge shall become toll-free.

3. Whether the Supreme Court of the State of Louisiana may ignore the admitted facts embodied in a joint stipulation and arrive at an unjustified factual conclusion which resulted to deny petitioner the benefits of the very law and jurisprudence enunciated by that court, thereby to discriminate against petitioner in violation of the Fourteenth Amendment of the Federal Constitution.

4. Whether the Supreme Court of Louisiana can fail to give full faith and credit to the declarations of a Mississippi statute proclaiming the operation by petitioner of this interstate bridge the performance of essential governmental functions, especially when the

principles of comity and common logic otherwise dictate.

STATUTES INVOLVED

The pertinent constitutional and statutory provisions are printed in Appendix I-IV, infra pages 20-28.

STATEMENT

The petitioner, a political subdivision of the State of Mississippi, is the owner of a combined railway and highway interstate bridge spanning the Mississippi River, with its western terminus within the State of Louisiana. This bridge forms a link in U. S. Highway 80, a transcontinental thoroughfare bridling the nation from the Atlantic to the Pacific Ocean. The bridge was, on April 30, 1947, purchased by petitioner from a private corporation for the sum of $7,000,000. This acquisition was authorized by Act of Congress (Public Act 170, 69th Congress, H. R. 9758—Appendix I) and by Chapter 283 of the Laws of Missippi for the year 1938. The Mississippi statutes expressly provided that the acquisition and operation of this bridge by petitioner would "constitute performance of essential governmental functions". The Legislature of Louisiana had passed a virtually identical statute (Act 287 of 1944). Both state acts and the Act of Congress require petitioner to devote all net earnings to the amortization of the purchase

price and thereupon to free the bridge of tolls to the general traveling public. From and after petitioner's acquisition, the bridge has admittedly been operated pursuant to all applicable laws, with the prime objective of making it toll-free. That this bridge will soon become toll-free if not unduly taxed by Madison Parish, Louisiana, is attested by the fact that at the time of the trial (April, 1950), the petitioner had actually retired or provided for the payment of two millions of its bridge revenue bonds.

No taxes are paid by petitioner within the State of Mississippi or to the Federal Government. However, Madison Parish imposed an *ad valorem* tax on that portion of the bridge lying within the confines of Louisiana. Complying with the applicable Louisiana Statute (Act 330 of 1938), petitioner necessarily paid these taxes under protest and then timely brought suit to recover the amount paid. The principal facts were jointly stipulated by the litigants (R. 62). The Trial Court rendered judgment on December 7, 1950, rejecting petitioner's demands (R. 45). On appeal, the Supreme Court of the State of Louisiana, on May 28, 1951, affirmed (R. 74). A petition for rehearing was timely filed (R. 83), was entertained and was denied June 29, 1951 (R. 91). The mandate was stayed (R. 90).

Although only 1948 taxes are here directly at issue, the freeing of this bridge from tolls to the general traveling public largely hinges on this Court's decision.

SPECIFICATION OF ERRORS TO BE URGED

The Supreme Court of the State of Louisiana erred:

1. After holding (even though erroneously) that petitioner owned this interstate bridge as to the portion thereof within Louisiana in a private capacity, in then holding that petitioner was expressly shorn of the protection and benefits of the due process and equal protection clauses of the Fourteenth Amendment because petitioner was a political subdivision of another state.

2. In holding that petitioner's ownership and operation of this bridge as to the portion thereof in Louisiana was not in the performance of essential governmental functions, thereby failing to give full faith and credit to the laws of Mississippi otherwise so declaring and requiring this bridge to be made toll-free.

3. In holding that the imposition of these *ad valorem* taxes was not an undue burden on interstate commerce.

4. In failing to give effect to the identical provisions of the statutory laws of both Louisiana and Mississippi, declaring these bridge properties tax exempt when, by these laws and said Act of Congress, the bridge is required by petitioner to be made toll-free to the general public.

5. In depriving petitioner of the equal protection of the admitted law of Louisiana thereby denying

to petitioner due process of law through an unwarranted factual conclusion that petitioner was not making a public use of the bridge revenues by devoting them to the retirement of its bridge revenue bonds.

REASONS FOR GRANTING WRIT

1. The exemption by Louisiana accorded to "all public property" was denied petitioner in that the state court held that exemption "has reference *only* to property of Louisiana and its political subdivisions" (R. 76). Petitioner was not recognized as having any public status in Louisiana. No regard was had by the Court below to the fact that, at Section 19 of Chapter 283 of the Laws of Mississippi of 1938, this interstate bridge, as owned and operated by petitioner, was declared to be "public property used for public purposes" in the "performance of essential governmental functions"—a provision similar to Sec-18 of Louisiana Act 287 of 1944. Therefore, petitioner was by the Louisiana courts assigned in this litigation the position of a private person. But then the Louisiana Supreme Court expressly denied petitioner the protection and benefits of the Fourteenth Amendment of the Federal Constitution on the premise that these constitutional guarantees (due process and equal protection of the law) are "utterly without application to the political subdivisions of a state, which cannot be viewed as a person within the purview of the constitutional provision" (R. 82). Divested of its

sovereignty, petitioner, having the burdens of an individual person, is and was entitled to the rights of an individual person and consequently to the protection afforded by the due process and equal protection clauses of the Fourteenth Amendment.

Standing unaltered, this decision denies petitioner the protection of the Fourteenth Amendment, and may well produce or result in:

(1) confiscation of petitioner's bridge properties by continuing tax increases;*

(2) delaying unreasonably and arbitrarily the freeing from tolls of this interstate bridge to the detriment of the traveling public nation-wide; and

(3) preventing petitioner from fulfilling the toll-free requirements of the Act of Congress (Section 5 of said Public Act 170) and of Section 13, Chapter 283 of Mississippi Laws of 1938.

If such be the law, then no single state or political subdivision thereof can safely, if at all, finance the construction or acquisition of an interstate bridge, even though the authority of Congress be obtained. The question here posed for review under the Fourteenth Amendment to the Federal Constitution is one in which every state has an interest and which the

* When this bridge was owned by a private Delaware corporation, the highest assessed valuation ever placed thereon within the State of Louisiana was $1,200,000. Although there has been no general raise by Madison Parish of other properties located therein, since petitioner's public acquisition in 1947 this assessment, by successive raises, has been fixed at $3,150,000. Suit is presently pending in the United States District Court for the Western District of Louisiana, seeking to assert the discrimination in violation of the Fourteenth Amendment, the protection of which amendment the Supreme Court of Louisiana has declared unavailable to petitioner.

states, their taxpayers and the traveling public generally are entitled to have settled by this Honorable Court.

2. The Supreme Court of Louisiana reaffirmed the doctrine enunciated in *Tulane Educational Fund vs. Board of Assessors,* 38 La. Ann. 292, and *Martin vs. Louisiana Central Lumber Company,* 150 La. 157, 90 So. 553, holding it to be "the well settled jurisprudence that 'property dedicated to a public use, the revenues of which serve a public purpose, is public property, although the title be not in the public' " (R. 78). Then the court below, in asserted recognition of the foregoing law, announced:

> "Accordingly, it is manifest that, if the Vicksburg bridge was dedicated to the public use by plaintiff after its acquisition in 1947, the property became constitutionally exempt from taxes for the year 1948." (R. 78.)

Nevertheless, the Louisiana court denied petitioner the "equal protection" and benefit of this admitted jurisprudence by reaching the unwarranted factual conclusion that the application of all net revenues toward amortizing the cost of the bridge was not a public use of such funds. It was solemnly stipulated that, following petitioner's acquisition, this bridge has been operated "strictly in accordance with the dictates and provisions of . . . the laws applicable thereto" and that petitioner has devoted "all of the net earnings thereof to the retirement of the revenue bonds issued as aforeshown" (R. 64—from "D" of

Join Stipulation). Otherwise, it was admitted that petitioner has operated this bridge "economically and efficiently with all net revenues being devoted to the retirement of the revenue bonds of said county" (R. 72—from "H" of Joint Stipulation).

By law, Congressional and State, this interstate bridge will be toll-free to the general traveling public when the bonds issued to enable its acquisition by the public are retired. The funds thus assembled and utilized to gain this goal are for a public purpose and use. When the Supreme Court of Louisiana unjustifiably otherwise declared, it wrongfully denied petitioner the tax exemption assured by the admitted laws of Louisiana. This action of this state court denied to petitioner "due process" and the "equal protection" of the law within the meaning of the Fourteenth Amendment. *Shelley vs. Kraemer,* 334 U. S. 1, 68 S. Ct. 836, 92 L. Ed. 1161.

3. The Supreme Court of Louisiana, upon the stipulated facts, was not authorized to draw the factual conclusion that the retirement of petitioner's revenue bonds in order to make this interstate bridge toll-free to the general traveling public was not a public use of the bridge revenues. Moreover, through this conclusion, the Louisiana Court failed to accord full faith and credit to the statutory law of Mississippi in violation of Section I, Article IV, of the Federal Constitution. The Legislatures of both Louisiana and Mississippi have respectively declared:

"BRIDGES AND BONDS EXEMPT FROM TAXATION.

"The exercise of the powers conferred by this act constitute the performance of essential governmental functions, and as bridges which are owned and operated by municipalities (Parishes) constitute public property used for public purposes, such bridges shall at all times be free from taxation within the state (the Louisiana Act referring to Louisiana, the Mississippi Act referring to Mississippi), and no municipality (Parish) shall be required to pay taxes or assessments upon any such bridge *or any part thereof,* owned by it, *whether located within or without the corporate limits of such municipality* (Parish)", etc.

—from Section 18, Act 287 of 1944, (La. Acts) and Section 19, Chapter 283, Laws of 1938 of Mississippi.

Even on principles of comity, the conclusion of the Louisiana Court was unauthorized as well as being constitutionally abhorrent. This Court has exercised its power to conform conflicting statutes of two states. This case cries even more for the exercise of such power where the legislative policies of the states conform, but the state court has arbitrarily ignored the provisions of its own legislation, as well as the legislation of its sister state. *Williams vs. State of North Carolina,* 317 U. S. 287, 63 S. Ct. 207, 87 L. Ed. 279, 143 A. L. R. 1273; *Broderick vs. Rosner,* 294 U. S. 629, 55 S. Ct. 589, 79 L. Ed. 1100, 100 A. L. R. 1133; *Alaska Packers Association vs. Industrial Accident Commission,* 294 U. S. 532, 55 S. Ct. 518, 79 L. Ed. 1044; *Bradford Electric Light Co. vs.*

Clapper, 286 U. S. 145, 52 S. Ct. 571, 76 L. Ed. 1026, 82 A. L. R. 696.

This bridge is one entire and indivisible structure. When the cost of the acquisition is amortized, it will be free and of equal benefit in Louisiana and Mississippi alike. The traveling public nationwide is the prospective beneficiary of petitioner's public ownership and operation of this bridge. Any distinction, based upon mere geographical state-line considerations, is artificial and unrealistic. The bridge cannot be half free and half slave, nor half public and half private. Consequently, the Louisiana Court should have accorded full faith and credit to the statutory laws of Mississippi, which coincide with its own (Chapter 283 of Laws of Mississippi of 1938, Act 287 of 1944 of Louisiana).

4. Petitioner, as the Louisiana Supreme Court pointed out "in the light of the facts of the case at bar" has submitted that the tax imposed does violence to the commerce clause, Section 8 of Article I of the Federal Constitution. This contention is not put at rest by the decisions of this Court in *Henderson Bridge Co. vs. Ky.*, 166 U. S. 150, 17 S. Ct. 532, 41 L. Ed. 953, and *Detroit International Bridge Co. vs. Corporation Tax Appeal Board,* 294 U. S. 83, 55 S. Ct. 332, 79 L. Ed. 777. In both of those cases state franchise taxes were upheld against wholly private corporations. No free medium of interstate commerce was there even in contemplation.

Here, the *ad valorem* tax imposed by respondents, if upheld, works a direct and real obstacle to this publicly owned interstate bridge becoming toll-free to the general public traveling in actual interstate commerce. The tax casts an undue burden upon interstate commerce in that it will manifestly postpone, if not ultimately defeat, the day when the bridge will be toll-free to the general public.

Both said Act of Congress (Section 5 thereof) which authorized and encouraged public ownership by petitioner and the Statute of Mississippi (Section 13 of said Chapter 283—Appendix II) require all net bridge revenues to be devoted to defraying the cost of the acquisition and provide that thereafter, by law, this bridge shall be free to the general public.

Throughout this nation, states and political subdivisions are now financing such interstate structures as petitioner's bridge through the issuance of revenue bonds, which are retired through tolls charged for the use of the structure. It is not thought that in the *Henderson* and *Detroit* cases, *supra,* this Court ever intended that one state might tax the properties of another state which were so vital to the flow of interstate commerce, and yet the Supreme Court of Louisiana has held that it may tax this interstate bridge, operated for the welfare of the people of this entire country, and, even further, that it may deny the public owner due process and confiscate this property through taxation.

Whether or not the public owner of a public interstate bridge can be taxed by a political subdivision of an adjoining state provokes an important question nationwide. Petitioner does not believe that this issue, under the commerce clause of the Federal Constitution, has been determined by this Court. It is apparent at bar that, even after all the costs of the acquisition have been amortized, respondents will continue to tax this bridge. The exaction of toll charges may well be continued to satisfy respondents' tax levies, the burden of which those traveling over this bridge in interstate commerce must continue to bear. The tax which now serves to delay the date when this interstate bridge will be toll-free will then be a direct cause of tolls continuing. Free intercourse between the states is thereby deterred. As to all of which this Honorable Court's determination, on this important question of nationwide concern, is respectfully elicited.

5. Article X, Section 4, Subsection 13, of the Constitution of Louisiana expressly exempted from taxation all bridges thereafter constructed which cross the Mississippi River *"when owned"* even by another state or political subdivision thereof, "where it is proposed that said bridge shall be operated free of tolls after a sinking fund shall have been provided from tolls sufficient for the amortization of the cost of the bridge". The Louisiana Court erroneously concluded that this provision did not afford tax exemption to petitioner. The construction resorted to violated the due process clause of the Fourteenth

Amendment, resulting in an arbitrary and unauthorized classification of petitioner's bridge. The stipulation of facts discloses that there are five bridges spanning the Mississippi River south of Memphis, Tennessee, three of which exact tolls against the general traveling public. The Vicksburg Bridge is the only one of the four bridges which are in or touch upon the State of Louisiana against which any taxes are sought to be imposed. This classification is believed to be both arbitrary and unconstitutional.

The construction adopted below leads to the unjust result that no bridge across the Mississippi River in the vicinity of Vicksburg (unless an unneeded and new duplicating bridge) can, under said Subsection 13 of the Louisiana Constitution, receive an exempt classification. This construction, to enable that provision constitutional validity, should have been avoided and the exemption allowed petitioner; otherwise petitioner is denied and will be denied due process of law. Manifestly this consequence was not considered below in that petitioner was there held not entitled to the protection of the Fourteenth Amendment of the Federal Constitution.

CONCLUSION

The issues at bar are serious and of nationwide importance. The interstate bridge involved (located at a historic and strategic gateway to the southwest)

serves as a vehicle of nationwide highway intercourse between the states—for all citizens of this nation alike. Can a single Parish of a State, or one state alone, delay and defeat free access among the states by denying due process, by denying the equal protection of its laws and by failing to accord full faith and credit to the laws of its sister state? And can a single state, by direct taxation (foregoing discriminatory levies and taxation untramelled by the limits of the due process clause), impose a burden on commerce between the states of this nation? These problems, it is believed, merit consideration and decision by this Court.

Seeking to comply with Rule 38(2) of this Court requiring conciseness and brevity, Petitioner has not advanced all of the arguments which will be urged if this petition is granted, nor has petitioner sought to cite, much less discuss, all of the precedents supporting its contentions. Such an opportunity is reserved for the hearing should this Court grant certiorari.

For the reasons herein assigned and apparent, this petition for a writ of certiorari should be granted.

Respectfully submitted,

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September 19, 1951.

APPENDIX I

Act of May 3, 1926 (Public 170—69th Congress), 44 Stat. 388.

An Act Granting the consent of Congress to the Vicksburg Bridge and Terminal Company to construct, maintain and operate a bridge across the Mississippi River at or near the City of Vicksburg, Mississippi.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to the Vicksburg Bridge and Terminal Company, its successors and assigns, to construct, maintain and operate bridge and approaches thereto across the Mississippi River, at a point suitable to the interests of navigation, between a point in the City of Vicksburg, Mississippi, at or near the crossing of the Dixie Overland Highway, and a point opposite in the State of Louisiana, at or near the continuation of the Dixie Overland Highway, in accordance with the provisions of the Act, entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, [33 U. S. C. A. 491 et seq.] and subject to the conditions and limitations contained in this Act.

Sec. 2. There is hereby conferred upon the said Vicksburg Bridge and Terminal Company, its successors and assigns, all such rights and powers to enter upon lands and to acquire, condemn, appropriate, occupy, possess, and use real estate and other property needed for the location, construction, opera-

tion and maintenance of such bridge and its approaches and terminals as are possessed by bridge corporations for bridge purposes in the State or States in which such real estate and other property are located upon making just compensation therefor, to be ascertained and paid according to the laws of such State or States, and the proceedings therefor shall be the same as in the condemnation and expropriation of property in such State or States.

Sec. 3. The said Vicksburg Bridge and Terminal Company, its successors and assigns, are hereby authorized to fix and charge tolls for transit over such bridge, and the rates so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in such Act of March 23, 1906.

Sec. 4. After the date of completion of such bridge, as determined by the Secretary of War, either the State of Mississippi, the State of Louisiana, any political subdivision of either of such States within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and take over all right, title and interest in such bridge and approaches, and interests in real property necessary therefor, by purchase or by condemnation in accordance with the law of either of such States governing the acquisition of private property for public purposes by condemnation. If at any time after the expiration of twenty years after the completion of such bridge, it is acquired by condemnation, the amount of damages or compensation to be allowed shall not include good will, going value or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such

bridge and approaches, less a reasonable deduction for actual depreciation in respect of such bridge and approaches; (2) the actual cost of acquiring such interests in real property; (3) actual financing and promotion costs (not to exceed 10 per centum of the sum of the cost of construction of such bridge and approaches and the acquisition of such interests in real property), and (4) actual expenditures for necessary improvements.

Sec. 5. If such bridge shall be taken over and acquired by the States or political subdivisions thereof under the provisions of Section 4 of this Act, the same may thereafter be operated as a toll bridge; in fixing the rates of toll to be charged for the use of such bridge, the same shall be so adjusted as to provide as far as possible a sufficient fund to pay for the cost of maintaining, repairing and operating the bridge and its approaches, to pay an adequate return on the cost thereof, and to provide a sinking fund sufficient to amortize the amount paid therefor within a period of not to exceed thirty years from the date of acquiring the same. After a sinking fund sufficient to pay the cost of acquiring such bridge and its approaches shall have been provided the bridge shall thereafter be maintained and operated free of tolls or the rates of toll shall be so adjusted as to provide a fund not to exceed the amount necessary for the proper care, repair, maintenance and operation of the bridge and its approaches. An accurate record of the amount paid for acquiring the bridge and its approaches, the expenditures for operating, repairing and maintaining the same and of the daily tolls collected shall be kept, and shall be available for the information of all persons interested.

Sec. 6. The said Vicksburg Bridge and Terminal Company, its successors and assigns, shall, within ninety days after the completion of such bridge, file with the Secretary of War a sworn itemized statement showing the actual original cost of constructing such bridge and its approaches, including the actual cost of acquiring interests in real property and actual financing and promotion costs. Within three years after the completion of such bridge the Secretary of War may investigate the actual cost of such bridge, and for such purposes the said Vicksburg Bridge and Terminal Company, its successors and assigns, shall make available to the Secretary of War all of the records in connection with the financing and construction thereof. The findings of the Secretary of War as to such actual original cost shall be conclusive, subject only to review in a court of equity for fraud or gross mistake.

Sec. 7. The right to sell, assign, transfer and mortgage all the rights, powers and privileges conferred by this Act is hereby granted to the said Vicksburg Bridge and Terminal Company, its successors or assigns, and any corporation to which such rights, powers and privileges may be sold, assigned or transferred, or which shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation.

Sec. 8. The right to alter, amend or repeal this Act is hereby expressly reserved.

Approved May 3, 1926.

APPENDIX II

Chapter 283 of Laws of Mississippi of 1938.

Section 13:

"Cessation of Tolls. When the particular bonds issued for any bridge or bridges and the interest thereon shall have been paid, or a sufficient amount shall have been provided for their payment and shall continue to be held for that purpose, the municipality issuing such bonds shall cease to charge tolls for the use of such bridge or bridges and thereafter such bridge or bridges shall be free, unless tolls are required for maintaining, repairing, and operating such bridge or bridges due to the lack of funds from other sources than tolls; but above provisions shall not apply to common carriers, transportation companies, bus lines and any one transporting passengers or freight for hire, but shall apply only to the use of highway portion of bridge by traveling public and as respects any other use the municipality may continue to fix and collect such tolls and charges as it may deem in the public interest."

Section 19:

"Bridge and Bonds Exempt from Taxation. The exercise of the powers conferred by this act constitute the performance of essential governmental functions, and as bridges which are owned and operated by municipalities constitute public property used for public purposes, such bridges shall at all times be free from taxation within the state, and no municipality shall be required to pay taxes or assessments upon any such bridge or any part thereof, owned by it, whether located within or without the corporate

limits of such municipality, and bonds issued under the provisions of this act, their transfer and income therefrom (including any profits made on the sale thereof) shall at all times be free from taxation within the state."

APPENDIX III

Act 287 of 1944 of Louisiana (R. S. 48:851 et seq.)

Section 12 (R. S. 48:886):

"Cessation of Tolls. When the particular bonds issued for any bridge or bridges and the interest thereon shall have been paid, or a sufficient amount shall have been provided for their payment and shall continue to be held for that purpose, the Parish issuing such bonds shall cease to charge tolls for the use of such bridge or bridges and thereafter such bridge or bridges shall be free, unless tolls are required for maintaining, repairing, and operating such bridge or bridges due to the lack of funds from other sources than tolls; but the above provisions shall not apply to common carriers, transportation companies, bus lines and any one transporting passengers or freight for hire, but shall apply only to the use of the highway portion of the bridge by the traveling public and as respects any other use, the Parish may continue to fix and collect such tolls and charges as it may deem in the public interest."

Section 18 (R. S. 48:881):

"Bridge and Bonds Exempt from Taxation. The exercise of the powers conferred by this act constitute the performance of essential governmental functions, and as bridges which are owned and operated by Parishes constitute public property used for public purposes, such bridges shall at all times be free from taxation within the state, and no Parish shall be required to pay taxes or assessments upon any such bridge or any part thereof, owned by it, whether located within or without the corporate

limits of such Parish, and bonds issued under the provisions of this act, their transfer and the income therefrom (including any profits made on the sale therefrom (including any profits made on the sale thereof) shall at all times be free from taxation within the state and otherwise as may be allowed by any law."

APPENDIX IV

Constitution of the United States.

Article 1, Section 8, Clause 3:

"The Congress shall have Power * * * to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; * * *"

Article IV, Sections 1 and 2:

"Full Faith and Credit shall be given in each State to the public Acts, Records, and Judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States. * * *"

Fourteenth Amendment, Section 1:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."